

## REMARKS

Claims 1-18 are pending in the present application. Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting. Applicants respectfully request reconsideration of the application, withdrawal of all rejections, and allowance of the application in view of the amendments and remarks below.

### The Invention

The present invention provides novel condensation drug aerosols and methods for producing such aerosols. These condensations aerosols have little or no pyrolysis degradation products. The unique method for generating or producing such aerosols employs rapid vaporization of the drug to minimize drug degradation during the process. These vaporized drugs are subsequently condensed to form particles of a desirable particle size for inhalation. These aerosols are especially useful in the treatment of acute or chronic conditions wherein rapid onset of treatment is desirable.

### Withdrawal of Finality of Rejection

Applicants have requested, and hereby request, that the Examiner reconsider the finality of the rejection as premature. The Examiner has indicated that she would withdraw the finality of the rejection, and therefore Applicants are submitting an accompanying Information Disclosure Statement for the Examiner's consideration and amending the claims of the present application as set forth herein.

### The Amendments to the Claims

Without prejudice to the Applicants' rights to present claims of equal scope in a timely filed continuing application, to expedite prosecution and issuance of the application, the Applicants have amended Claims 1-3 and 10-12 and cancelled Claims 4-9 and 13-18. The Applicants also have presented new Claims 19-42. The amended claims and the new claims are supported by the specification (see below for examples of such support).

Claim	Examples of Support in the Specification
Claim 1	Paragraphs 0014, 0016, 0023, 0025; Examples 2-4
Claim 2	Paragraph 0035
Claim 3	Paragraph 0035
Claim 10	Paragraphs 0014, 0016, 0023, 0025; Examples 2-4
Claim 11	Paragraph 0035
Claim 12	Paragraph 0035
Claim 19	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0023
Claim 20	Paragraph 0023
Claim 21	As recited above for Claim 19
Claim 22	Paragraph 0016

<b>Claim</b>	<b>Examples of Support in the Specification</b>
Claim 23	Paragraph 0016
Claim 24	Paragraph 0091
Claim 25	Paragraph 0014
Claim 26	Paragraph 0014
Claim 27	Paragraph 0014
Claim 28	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0023
Claim 29	Paragraph 0023
Claim 30	As recited above for Claim 19
Claim 31	Paragraph 0016
Claim 32	Paragraph 0016
Claim 33	Paragraph 0091
Claim 34	Paragraph 0014
Claim 35	Paragraph 0014
Claim 36	Paragraph 0014
Claim 37- Claim 39	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0014, 0016, 0023, 0025
Claim 40- Claim 42	Paragraphs 0001 [incorporates by reference U.S. provisional application Ser. No. 60/317,479 (see, e.g., page 30, lines 25-27)], 0014, 0016, 0023, 0025

The amendments to the claims do not introduce new matter. Applicants respectfully submit that the amendments to the claims put the case in condition for allowance. The Examiner is respectfully requested to enter the amendments to the claims and allow all amended claims.

### **Double Patenting**

Claims 1-18 were provisionally rejected under the judicially created doctrine of obviousness-type double patent as being unpatentable over claims of copending Application No. 10/718,982 as these claims are "either anticipated by, or would have been obvious over, the reference claims." Office Action at 2-3.

Applicants have filed with this response a Terminal Disclaimer with regard to copending Application No. 10/718,982. Applicants believe that this addresses the Examiner's concerns and respectfully request reconsideration of the application, withdrawal of all rejections, and allowance of the application in view of these actions and remarks.

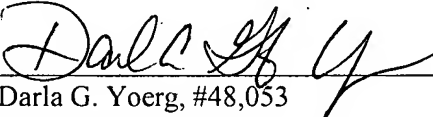
### **Conclusion**

The Applicants appreciate the Examiner's careful and thorough review of the application and submit that the Examiner's concerns have been addressed by the amendments and remarks above. The Applicants accordingly request the Examiner to withdraw all rejections and allow the application. In the event the Examiner believes a telephonic discussion would expedite allowance or help to resolve outstanding issues, prosecution of the application, then the Examiner is invited to call the undersigned.

This constitutes a request for any needed extension of time and an authorization to charge all fees therefore to deposit account No. 19-5117, if not otherwise specifically requested. The undersigned hereby authorizes the charge of any fees created by the filing of this document or any deficiency of fees submitted herewith to be charged to deposit account No. 19-5117.

Respectfully submitted,

Date: September 23, 2005

A handwritten signature in dark ink, appearing to read "Darla G. Yoerg", is written over a horizontal line.

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